

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE**

**ALLSTATE INDEMNITY COMPANY** \*  
**as subrogee of ANTHONY and**  
**KAREN AYERS,** \*

**Plaintiff,** \*

**v.** \*

**AIR VENT, INC.,** \*

**Defendant.** \*

**Civil Action No.:** 7:19CV308

**Removed Case Number:** *CL19000396-00*

*(Circuit Court for Roanoke County)*

\* \* \* \* \*

**NOTICE OF REMOVAL**

Defendant Air Vent, Inc. (“AVI”) files this Notice of Removal of this action to this Court from the Circuit Court for Roanoke County, Virginia in accordance with to 28 U.S.C. §§ 1332, 1441 and 1446.

**STATEMENT OF GROUNDS FOR REMOVAL**

**I. Background**

1. On March 15, 2019, Plaintiffs filed a Complaint against AVI in the Circuit Court of Roanoke County, to initiate this action. **Exhibit A** Docket Sheet.

2. On March 27, 2019, Plaintiffs served AVI. **Exhibit A** and **Exhibit B**, Summons.

**II. Jurisdictional Basis for Removal**

3. Jurisdiction over this removed action exists pursuant to 28 U.S.C. § 1441 because this action could have been filed in the United States District Court pursuant to 28 U.S.C. § 1332(a). The United States District Court has subject matter jurisdiction over this action because this action is between citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

**A. Diversity of Citizenship**

4. Plaintiff Anthony Ayres is a citizen of Virginia residing in Roanoke, Virginia. (Exhibit C, Complaint. ¶ 3).

5. Plaintiff Karen Ayres is a citizen of Virginia residing in Roanoke, Virginia. (Compl. ¶ 3).

6. Upon information and belief, Plaintiff Allstate Indemnity Company is incorporated in Illinois with its principal place of business in Illinois; Allstate is therefore a citizen of Illinois.

7. AVI is incorporated in the state of Delaware [Compl. ¶ 4] with its principal place of business in Dallas, Texas; AVI is therefore a citizen of Delaware and Texas.

8. There is diversity of citizenship under 28 U.S.C. § 1332(a) because Plaintiffs are citizens of Virginia and Illinois and Defendant is a citizen of Delaware and Texas.

**B. Amount in Controversy**

9. The Complaint seeks damages in the amount of \$103,507.12. (Compl. ¶ 13 and prayer for damages).

10. As Plaintiffs seek an amount greater than \$75,000, the amount in controversy requirement for diversity jurisdiction is satisfied.

**III. Procedural Requirements for Removal**

11. On March 27, 2019, Plaintiff served AVI. Less than 30 days have passed since the date of service. Therefore, this Notice of Removal is timely pursuant to the provisions of 28 U.S.C. § 1446(b)(1).

12. This lawsuit was filed on March 15, 2019. Less than One year has passed since this lawsuit was filed. Therefore, this Notice of Removal is timely pursuant to the provisions of 28 U.S.C. § 1446(c)(1).

13. This action is being removed “to the district court of the United States for the district and division embracing the place where such action is pending” under 28 U.S.C. § 1441(a). The United States District Court for the Western District of Virginia, Roanoke embraces Roanoke County, Virginia. *See* 28 U.S.C. § 127(b).

14. AVI is filing written notice of this removal with the Clerk of the Circuit Court of Roanoke County pursuant to 28 U.S.C. § 1446(d). **Exhibit D** is a copy of AVI’s Notice of Filing Notice of Removal to the state court, which is being served upon Plaintiffs pursuant to 28 U.S.C. § 1446(d).

Dated this 15<sup>th</sup> day of April 2019

Respectfully submitted,

/s/ Christopher M. Corchiarino

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*Attorney for Defendant Air Vent, Inc.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 15<sup>th</sup> day of April 2019, I electronically filed the foregoing Notice of Removal with the Clerk of the Court using the CM/ECF system, which sends electronic notification of such filing to all CM/ECF participants and by United States first-class mail, postage prepaid, to:

John P. Williamson  
Tina C. Babcock  
McKenry Dancigers Dawson, P.C.  
192 Ballard Court, Suite 400  
Virginia Beach, VA 23462

/s/ Christopher M. Corchiarino

Christopher M. Corchiarino